

## **REMARKS**

Following entry of the foregoing amendments, claims 17 to 22 will be pending in this patent application. Claim 17 has been amended, and new claim 22 has been added, herein. No claims have been canceled. Support for the amendments and claim 22 is found throughout the specification as originally filed, including, for example, paragraphs 27 to 30 and Figures 3 and 4. The amendments and new claim thus do not introduce new matter into the application.

Applicant respectfully requests reconsideration of the rejections of record in view of the foregoing amendments and the following remarks.

### **Alleged Anticipation and Obviousness**

A. Claims 17 to 21 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by, or, alternatively, under 35 U.S.C. § 103(a) as allegedly rendered obvious by, U.S. patent number 5,857,994 (“the Flower patent”). Applicant respectfully requests reconsideration and withdrawal of this rejection because the Flower patent fails to teach or suggest every limitation of the claims.

To establish *prima facie* obviousness, the Patent Office must demonstrate that the cited prior art reference or combination of references teaches or suggests all the limitations of the claims.<sup>1</sup> The Patent Office must also identify “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.”<sup>2</sup> In other words, the Office must identify “an apparent reason to combine the known elements *in the fashion claimed by the patent at issue*. To facilitate review, this analysis should be made explicit.”<sup>3</sup>

Claim 17 has been amended herein to recite electrotransport devices comprising a reservoir and a non-conductive housing for the reservoir that comprises a substantially flexible electrically conductive element integrally molded within the non-conductive housing. A

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<sup>1</sup> *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

<sup>2</sup> *KSR Int’l Co. v. Teleflex*, 127 S.Ct. 1727, 1741.

<sup>3</sup> *KSR Int’l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (emphasis added)(citing *In re Kahn*, 441, F.3d 977, 988 (Fed. Cir. 2006).

substantially liquid and moisture-impermeable bond is created between the material forming the non-conductive housing and the conductive element. The electrically conductive element comprises an electrode end positioned within the non-conductive housing and coated with an electrode coating, a connecting portion coated with a connecting coating comprising a flexible polymer, and a contact end positioned outside the non-conductive housing and coated with a contact coating.

The Flower patent fails to describe or suggest such devices. For example, the Flower patent does not describe electrotransport devices having a substantially flexible electrically conductive element that comprises an electrode end positioned within a non-conductive housing and coated with an electrode coating and a contact end positioned outside the non-conductive housing and coated with a contact coating. Moreover, the Flower patent does not describe or suggest a substantially flexible electrically conductive element comprising a connecting portion coated with a connecting coating that comprises a flexible polymer. Rather, the Flower patent describes an iontophoretic drug delivery device that includes a controller 2 and a patch 4 containing active electrode 8 and return electrode 10.<sup>4</sup> The controller is electrically coupled to the patch using electronic interconnectors 26.<sup>5</sup> The patent states that the electronic interconnectors can be a printed flexible circuit, metal foils, wires, tabs, or electrically conductive adhesives.<sup>6</sup> The Flower patent, however, does not teach or suggest that the electronic interconnectors comprise an electrode end coated with an electrode coating, a contact end and coated with a contact coating, and a connecting portion coated with a connecting coating comprising a flexible polymer. The Flower patent thus fails to teach or suggest every limitation of the claims, and therefore fails to anticipate the claimed electrotransport devices or render them obvious. Applicant accordingly, respectfully, requests withdrawal of the rejection.

**B.** Claims 17 to 21 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by, or, alternatively, under 35 U.S.C. § 103(a) as allegedly rendered obvious by, U.S. patent number 5,857,994 (“the Kuribayshi patent”). Applicant respectfully requests

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<sup>4</sup> Figures 1 and 2 and col. 4, lines 15 to 30.

<sup>5</sup> Col. 4, lines 27 to 28.

<sup>6</sup> Col. 4, lines 27 to 30.

reconsideration and withdrawal of this rejection because the Kuribayshi patent fails to teach or suggest every limitation of the claims.

Similar to the situation with the Flower patent, the Kuribayshi patent fails to describe or suggest the presently claimed electrotransport devices that comprise a substantially flexible electrically conductive element comprising an electrode end positioned within a non-conductive housing and coated with an electrode coating, a contact end positioned outside the non-conductive housing and coated with a contact coating, and a connecting portion coated with a connecting coating comprising a flexible polymer. Rather, the Kuribayshi patent describes an electrode structure for iontophoresis devices in which an electrode layer 2 is located between an insulating layer 3 and a backing 1, and a portion of the electrode layer 2 makes direct contact with a conductive layer 9 and with a cover member 8 where the insulating layer 3 is not present.<sup>7</sup> The Kuribayshi patent does not teach or suggest a substantially flexible electrically conductive element comprising an electrode end positioned within a non-conductive housing and coated with an electrode coating, and a contact end positioned outside the non-conductive housing and coated with a contact coating, much less describe or suggest a substantially flexible electrically conductive element that comprises a connecting portion coated with a connecting coating comprising a flexible polymer. The Kuribayshi patent thus fails to teach or suggest every limitation of the claims, and therefore fails to anticipate the claimed electrotransport devices or render them obvious. Applicant accordingly, respectfully, requests withdrawal of the rejection.

C. Claims 17 to 21 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by, or, alternatively, under 35 U.S.C. § 103(a) as allegedly rendered obvious by, U.S. patent number 4,747,819 (“the Phipps patent”). Applicant respectfully requests reconsideration and withdrawal of this rejection because the Phipps patent fails to teach or suggest every limitation of the claims.

As with the Flower and Kuribayshi patents, the Phipps patent fails to describe or suggest the presently claimed electrotransport devices that comprise a substantially flexible electrically conductive element comprising an electrode end positioned within a non-conductive housing and

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<sup>7</sup> Figures 2, 3, and 6(c) and col. 5, lines 59 to 65.

coated with an electrode coating, a contact end positioned outside the non-conductive housing and coated with a contact coating, and a connecting portion coated with a connecting coating comprising a flexible polymer. Rather, the Phipps patent describes bioelectrodes for iontophoresis devices that comprise a flexible housing 12.<sup>8</sup> An exterior connector 20 is in electrical contact with a current distribution member 23 in the housing that contacts a drug reservoir 18.<sup>9</sup> The patent states that the exterior connector 20 can be a wire,<sup>10</sup> but does not teach or suggest that the exterior connector is a substantially flexible electrically conductive element comprising an electrode end positioned within a non-conductive housing and coated with an electrode coating, and a contact end positioned outside the non-conductive housing and coated with a contact coating. Moreover, the patent fails to teach or suggest that the exterior connector is a substantially flexible electrically conductive element that comprises a connecting portion coated with a connecting coating comprising a flexible polymer. The Phipps patent thus fails to teach or suggest every limitation of the claims, and therefore fails to anticipate the claimed electrotransport devices or render them obvious. Applicant accordingly, respectfully, requests withdrawal of the rejection.

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<sup>8</sup> Col. 8, lines 23 to 27.

<sup>9</sup> Figure 1 and col. 8, lines 58 to 62.

<sup>10</sup> Col. 8, line 59.

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**PATENT**

### **Conclusion**

Applicant believes that the foregoing constitutes a complete and full response to the official action of record. Accordingly, an early and favorable action is respectfully requested.

Respectfully submitted,

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